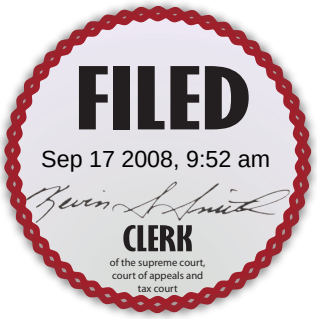

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IN THE
COURT OF APPEALS OF INDIANA

BRADD E. STROUP,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0802-CR-136
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Patricia Gifford, Judge
Cause No. 49G04-0706-FA-113861

September 17, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Bradd Stroup appeals his sixty-year sentence for two counts of Class A felony child molesting. We affirm.

Issue[1]

Stroup raises one issue, which we restate as whether his sentence is inappropriate.

Facts

On November 5, 2000, Stroup abducted seven-year-old J.B., who was walking to a park with her five-year-old brother D.B. D.B. got into the car with J.B. and Stroup. Stroup drove the children to a wooded area, removed J.B. from the car, engaged in vaginal intercourse with her, and returned the children to the vicinity from which he abducted them. On March 29, 2001, Stroup abducted nine-year-old E.L., who was walking to school, drove her to a wooded area, forced her to the ground, and inserted his penis into her anus. E.L. screamed, and Stroup fled. Both incidents were immediately reported to the police, and in 2007, DNA samples taken from the victims were matched to Stroup.

On June 20, 2007, the State charged Stroup with two counts of Class A felony child molesting, six counts of Class C felony criminal confinement, and Class D felony child solicitation. On January 9, 2008, Stroup pled guilty to the two Class A felony child

[1] The State characterizes Stroup's argument as a challenge to the trial court's discretion in sentencing him and a challenge to the appropriateness of his sentence. Stroup, however, specifically asks us to revise his sentence pursuant Indiana Appellate Rule 7(B). He does not claim that the trial court abused its discretion in sentencing him. Accordingly, we address the appropriateness of his sentence, and it is unnecessary to determine whether he was sentenced pursuant to the old or the new sentencing scheme.

molesting charges, and the State dismissed the remaining charges. Stroup's plea agreement called for discretionary consecutive sentences. On that same day, a sentencing hearing was held, and the trial court sentenced Stroup to thirty years on each count and ordered the sentences to be served consecutively for a total sentence of sixty years. Stroup now appeals.

Analysis

Stroup claims that his sixty-year sentence for the two Class A felony child molesting convictions is inappropriate in light of the nature of the offenses and the character of the offender. See Ind. Appellate Rule 7(B). Although Indiana Appellate Rule 7(B) does not require us to be "extremely" deferential to a trial court's sentencing decision, we still must give due consideration to that decision. Rutherford v. State, 866 N.E.2d 867, 873 (Ind. Ct. App. 2007). We also understand and recognize the unique perspective a trial court brings to its sentencing decisions. Id. "Additionally, a defendant bears the burden of persuading the appellate court that his or her sentence is inappropriate." Id. Stroup has not met this burden.

As for the nature of the offenses, Stroup claims that other than the commission of the crime, each child was "unharmed." Appellant's Br. pp. 6, 7. That characterization is ludicrous. On one occasion, Stroup abducted a young girl who was walking to a park with her brother, drove the two children to a wooded area, and engaged in vaginal intercourse with the young girl. Approximately four months later, Stroup abducted another young girl on her way to school, drove her to a wooded area, and engaged in anal sex with her. Given that the crimes involved two unrelated abductions and acts of

intercourse with two different young girls, the nature of the offenses does not warrant the imposition of a sentence less than advisory consecutive sentences.

As for Stroup's character, Stroup refers us to his alcohol abuse, past sexual abuse, and his military service. Even considering these factors in the light most favorable to Stroup, we do not believe his sixty-year sentence must or should be reduced. Stroup's criminal history, although consisting of relatively minor offenses, includes six Class A misdemeanor convictions and one Class D felony conviction. This shows a continuous pattern of failing to abide by the law. Further, although Stroup pled guilty to these offenses, he did so in exchange for a substantial benefit—the dismissal of six Class C felony charges and one Class D felony charge. Additionally, more than six years passed from the commission of these offenses to Stroup's identification as the perpetrator and his admission of guilt. This passage of time does not show that Stroup's guilty plea was made out of concern for the victims. Under these facts, we do not believe that Stroup's sixty-year sentence is inappropriate.

Conclusion

Stroup has not established that his advisory consecutive sentences are inappropriate. We affirm.

Affirmed.

FRIEDLANDER, J., and DARDEN, J., concur.